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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

2008 MAY 12 A 10:33

MIKE GLEASON, Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
KRISTIN K. MAYES
GARY PIERCE

AZ CORP COMMISSION
DOCKET CONTROL

IN THE MATTER OF THE APPLICATION OF
ARIZONA-AMERICAN WATER COMPANY,
INC. FOR A DETERMINATION OF THE
CURRENT FAIR VALUE OF ITS UTILITY
PLANT AND PROPERTY AND FOR INCREASES
IN ITS RATES AND CHARGES BASED
THEREON FOR UTILITY SERVICE BY ITS
ANTHEM WATER AND ANTHEM/AGUA FRIA
WASTEWATER DISTRICTS.

DOCKET NO. WS-01303A-06-0403

Arizona Corporation Commission

DOCKETED

MAY 12 2008

DOCKETED BY

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**PROCEDURAL ORDER DENYING
MOTION TO REOPEN RECORD
AND SCHEDULE A HEARING**

BY THE COMMISSION:

On June 16, 2006, Arizona-American Water Company ("Arizona-American" or "Company") filed with the Arizona Corporation Commission ("Commission") an application for a determination of the current fair value of its utility plant and property and for increases in its rates and charges for utility service in its Anthem Water and Anthem/Agua Fria Wastewater Districts.

Intervention was granted in this matter to the Residential Utility Consumer Office ("RUCO") and the Anthem Community Council ("Council").

The hearing in this matter commenced as scheduled, on May 29, 2007, continuing on May 30 and 31, 2007, and June 1 and 4, 2007.

Following the June 4, 2007, hearing date, the hearing continued again on July 13, 2007. On that date a witness from Pulte Homes, Inc. ("Pulte") appeared before the Commission to answer questions relating to the agreements underlying a portion of Arizona-American's rate increase request in this docket. Following the testimony of the Pulte witness on July 13, 2007, the record was left open in order to allow for the filing of late-filed exhibits and responses thereto, and to allow additional discovery.

Following the July 13, 2007, hearing date several post-hearing filings were made.

On July 17, 2007, the Council filed a copy of its First Set of Data Requested to Non-Party Witness Pulte Homes.

Also on July 17, 2007, RUCO filed its First Set of Data Requested to Pulte Homes, Inc.

On July 20, 2007, the Council filed its Late-Filed Exhibit C-8 (Public Reports).

On July 23, 2007, Staff filed Late-Filed Exhibit S-16.

Also on July 23, 2007, Arizona-American filed Late-Filed Exhibit A-30.

On July 24, 2007, Arizona-American filed Late-Filed Exhibit A-31.

On July 30, 2007, the Council filed its Late-Filed Exhibits in Response to Staff's Late-Filed Exhibit S-16.

On July 30, 2007, Staff Filed its First Set of Data Requested to Pulte Homes, its Sixteenth Set of Data Requested to Arizona-American Water Company, and its First Set of Data Requested to Citizens Utilities Company.

On August 17, 2007, Pulte filed the following: Pulte Home Corporation's Response to Commission Questions, Pulte Home Corporation's Response to RUCO's First Set of Data Requested, Pulte Home Corporation's Response to Staff's Data Requested, and Pulte Home Corporation's Response to the Anthem Community Council's First Set of Data Requested to Non-Party Witness.

On September 17, 2007, a copy of a letter from Commissioner Mayes to counsel for Pulte was docketed.

On October 3, 2007, Staff filed a Revised Engineering Report and Revised Revenue Requirement Schedules, and on October 4, 2007, Staff filed its revised Typical Bill Analysis and Rate Design schedules, to reflect Staff's proposed revised allocation of Arizona-American's Northwest Valley Regional Treatment Facility ("Northwest Plant").

On October 9, 2007, Arizona-American filed a copy of the executed Fourth Amendment to Agreement for Anthem Water/Wastewater Infrastructure ("Fourth Amendment"). In a letter to the Commission included in the October 9, 2007, filing, Arizona-American requested that the remainder of this rate proceeding be expedited to enable a Commission vote at its December, 2007, Open Meeting.

1 On October 10, 2007, a Procedural Order was issued setting a deadline of October 24, 2007,
2 for parties to file responses to late-filed exhibits or request additional hearings. The Procedural Order
3 also set deadlines for the filing of final schedules and briefs, and suspended the timeclock due to the
4 additional time required to complete the hearings on this matter.

5 On October 12, 2007, a telephonic procedural conference was convened at the request of the
6 parties. Counsel for the Company, the Council, RUCO, and Staff attended.

7 At the October 12, 2007, telephonic procedural conference, RUCO requested that another day
8 of hearing be scheduled in order to allow cross-examination of Company, Pulte and Staff witnesses
9 on the post-hearing filings. Arizona-American stated that it would like to have another hearing date
10 scheduled as soon as possible to allow cross-examination on the Fourth Amendment and on Staff's
11 schedules reflecting its revised allocation of the Northwest Plant. The Council agreed that an
12 additional day of hearing was necessary. Staff stated that it planned to make witnesses available for
13 cross-examination on the revised schedules it had filed. Staff further stated that it would take the
14 steps necessary to have a witness from Pulte available to testify.

15 On October 12, 2007, following the telephonic procedural conference, a Procedural Order was
16 issued setting the hearing in this matter to reconvene on October 31, 2007, and requiring Staff to take
17 the necessary steps to have a witness for Pulte available on that date to testify regarding the Fourth
18 Amendment filed on October 9, 2007, and regarding previously requested information. The October
19 12, 2007, Procedural Order stated that the procedural schedule for the filing of final schedules,
20 closing briefs, and reply briefs would be discussed at the hearing.

21 On October 19, 2007, Pulte filed a letter to Commissioner Mayes responding to questions.

22 On October 22, 2007, the Council docketed its Response to Staff's Notice of Filing. The
23 Council stated therein that the Council "hereby provides notice of Council's intention to timely
24 respond to Staff's October 4th Notice of Filing, after an opportunity to question Staff's witness at the
25 October 31, 2007 hearing date. Council intends to respond in the form of final schedules no later
26 than November 6, 2007 and/or in its Closing Brief."

27 On October 24, 2007, Staff filed its Status Update and Request for Procedural Order. Staff
28 indicated that pursuant to the October 12, 2007, Procedural Order, Staff had arranged with Pulte for a

1 witness to voluntarily appear on October 31, 2007, and that Pulte had requested that the hearing
2 commence at 8:30 or 9:00 a.m. because the witness had other meetings scheduled for later in the day.

3 On October 26, 2007, the Company made a filing supporting Staff's Request for a Procedural
4 Order.

5 On October 26, 2007, a Procedural Order was issued setting the commencement time of the
6 October 31, 2007, hearing date for 8:30 a.m.

7 The hearing reconvened as scheduled on October 31, 2007, with testimony continuing
8 through November 1, 2007. Public comment was taken at the commencement of the hearing on
9 October 31, 2007. Daniel Christopher Ward, Pulte's counsel for Arizona and New Mexico, provided
10 testimony on behalf of Pulte and was cross-examined by Commissioner Mayes and Commissioner
11 Mundell. Paul Townsley, President of Arizona-American, was recalled and provided testimony, and
12 was cross-examined by Commissioner Mundell and Commissioner Mayes, and by counsel for the
13 Council, RUCO and Staff. Ray L. Jones, past President of Arizona-American and now a consultant
14 for Arizona-American, was recalled and provided testimony, and was cross-examined by
15 Commissioner Mundell and Commissioner Mayes. Linda J. Gutowski, Senior Financial Analyst for
16 Arizona-American, and Thomas M. Broderick, Manager, Rates and Regulatory Affairs for American
17 Water, Western Region, were recalled and provided testimony, and were cross-examined by counsel
18 for RUCO, the Council, and Staff. Gerald Becker, Staff Public Utilities Analyst, Katrin Stukov, Staff
19 Utilities Engineer, and Steven Irvine, Staff Public Utilities Analyst, all were recalled, provided
20 testimony, and were cross-examined by counsel for RUCO, the Council, and the Company.¹ Rodney
21 L. Moore, RUCO Public Utilities Analyst, was recalled and provided testimony regarding the
22 Northwest Plant, and was cross-examined by counsel for Staff, the Council, and the Company.
23 Marylee Diaz Cortez, Chief of Accounting and Rates for RUCO, was called as a rebuttal witness for
24 the Company and provided testimony.

25 On November 1, 2007, at the close of the hearing, the parties agreed to a schedule for the
26 filing of final schedules, closing briefs, and reply briefs.

27
28 ¹ The Company did not cross-examine Mr. Irvine.

1 On November 2, 2007, the Company filed its Final Rate Design Schedules.

2 On November 6, 2007, the Company filed Late-Filed Exhibit A-34 (Revised Exhibit TMB R-
3 2).

4 On November 6, 2007, RUCO filed its Final Post Hearing Schedules.

5 On November 6, 2007, Staff filed the Final Schedules of Dennis Rogers, Steven Irvine,
6 Gerald Becker, and Pedro M. Chaves.

7 On November 6, 2007, Pulte filed a letter addressing information on two issues requested by
8 Commissioner Mayes and Commissioner Mundell at the continuation of the hearing on October 31,
9 2007.

10 On November 7, 2007, the Council filed its Final Revised Schedules and Responses to Late-
11 Filed Exhibits.

12 On November 14, 2007, Pulte filed a letter to Commissioner Mayes and Commissioner
13 Mundell.

14 On November 19, 2007, RUCO filed its Revised Final Schedules.

15 On November 30, 2007, Arizona-American, the Council, RUCO, and Staff filed Closing
16 Briefs.

17 On December 18, 2007, Arizona-American, the Council, RUCO, and Staff filed Reply Briefs.

18 On March 13, 2008, RUCO and the Council jointly filed a Motion to Open the Record and
19 Schedule a Hearing ("Motion"). The Motion requests that the record be opened in this docket for the
20 limited purpose of taking additional testimony to supplement the record concerning the allocation of
21 the Northwest Plant to the Anthem/Agua Fria Wastewater District. RUCO and the Council assert in
22 the Motion that it would be "helpful to the Commission if the record were supplemented regarding
23 the appropriate allocation percentages that should be considered for ratemaking treatment in the
24 Anthem/Agua Fria Districts, as well as any other alternatives on an appropriate ratemaking treatment
25 for the allocation," and that "it would be further helpful if the parties were allowed an opportunity to
26 do some additional discovery if they felt it was necessary." The Motion asserted that "it would serve
27 no purpose to recite the procedural history of this case," but that "it would be beneficial for the record
28 to be supplemented so that the Commission will have a complete record from which to make its

1 Decision.”

2 On March 17, 2008, Arizona-American filed its Response to the Motion. Therein, the
3 Company stated that the procedural history of this case is very important, in that it shows that RUCO
4 and the Council were provided ample opportunity to address the Northwest Plant allocation issue
5 while the record was open, and that each did in fact address the issue while the record was open.
6 Arizona-American stated that prior to the reconvening of the hearing on October 31, 2007, RUCO
7 had known for nine weeks, and the Council had known for seven weeks, that the Northwest Plant
8 reallocation would be an issue, but they chose to conduct no discovery, and that RUCO and the
9 Council extensively cross-examined Staff and the Company concerning the revised Northwest Plant
10 allocation when the hearing reconvened.

11 Arizona-American argued that a party may be entitled to reopen the record and provide
12 additional argument in certain limited circumstances: if sufficient due process was not provided; if it
13 was ineffectively represented by counsel, so that it was unable to prosecute a case effectively; or if
14 there is newly-discovered material evidence. The Company stated that RUCO and the Council have
15 never claimed that the response time allotted prior to the October 31, 2007, hearing date was not
16 sufficient, and did not request additional time; that they have not claimed ineffective representation
17 by counsel; that they have not alleged that they have discovered any new material evidence, or that
18 they could not have diligently discovered such evidence in time for the October 31, 2007, hearing;
19 and that RUCO and the Council in fact conducted no discovery on the Northwest Plant allocation
20 issue. Arizona-American asserted that granting the Motion would do irreparable financial harm to
21 the Company by delaying the implementation of new rates, and requested that the Motion be denied.
22 In the alternative, the Company requested that a recommended opinion and order be issued with a
23 recommendation of final rates for the Anthem Water District, and interim rates for the Anthem/Agua
24 Fria Wastewater District, with a second phase of the case to follow, for the single issue of the
25 Northwest Plant allocation, if the Commission deems it necessary to address the issue prior to the
26 next rate proceeding for the Anthem/Agua Fria Wastewater District.

27 On March 21, 2008, a Procedural Order was issued setting Oral Argument for March 28,
28 2008, on the March 13, 2008, Motion.

1 On March 21, 2008, RUCO filed its Reply to Arizona-American's Response to the March 13,
2 2008, Motion. RUCO argued that it "did not feel, nor does it feel that it is RUCO's burden to
3 conduct discovery for the purpose of creating a record that would support the Company and Staff's
4 position." RUCO further argued that "at the time Staff filed its amended schedules on October 3,
5 2007, RUCO was not only unaware of exactly what Staff was recommending, RUCO, like all the
6 parties, did not even know if Staff's recommendation would be an issue in this case" and that whether
7 it would be an issue would not be known until the Commission decided the Sun City West
8 Wastewater rate case, in which the Northwest Plant allocation was at issue. RUCO asserted that
9 because the Sun City West Wastewater Decision "made it clear that the allocation issue will be
10 decided in this case and not the Sun City Wastewater case, it is appropriate to open the record in this
11 case to take additional evidence." RUCO stated its belief that further evidence on the issue of proper
12 ratemaking treatment for the Northwest Plant would be beneficial to the Commission. In addition,
13 RUCO stated that it does not oppose the Company's alternative proposal to separate the water and
14 wastewater districts for decision making purposes.

15 On March 25, 2008, Staff filed its Response to the March 13, 2008, Motion. Staff opposes
16 the Motion. Staff stated that RUCO and the Council received actual notice of Staff's changed
17 recommendation regarding the Northwest Plant allocation, from 2.5 percent to 32 percent, on October
18 3, 2007. Staff argued that this notice complied with the October 5, 2006, Procedural Order in this
19 case which required substantive corrections, revisions or supplements to pre-filed testimony to be
20 reduced to writing and filed no later than five days before the witness was scheduled to testify. Staff
21 argued that additional due process was made available to the parties by the October 9, 2007,
22 Procedural Order issued in this case, which set a deadline of October 24, 2007, for the parties to file
23 their responses, if any, to late-filed exhibits, and to request additional hearings, if any, and that
24 neither RUCO nor the Council requested additional hearing days, and that neither conducted
25 discovery on the allocation. Staff argued that lack of due diligence by a party constitutes an
26 insufficient reason to reopen a closed record, and that both RUCO and the Council rested their cases
27 notwithstanding an invitation by the presiding officer to provide further hearings. Staff further
28 argued that Staff's resources are limited, such that it cannot continually retry cases that have already

1 been fully vetted, and that continually litigating cases because a party doesn't agree with the results
2 will waste scarce State resources. Staff asserted that the record in this case will support any policy
3 decision by the Commission and that no further process is necessary or appropriate prior to the
4 issuance of a recommended opinion and order in this case for consideration by the Commission.

5 On March 27, 2008, the Council filed its Reply in Support of Motion to Open the Record.
6 Therein, the Council argued that the Council did not receive any kind of actual written notice of the
7 revised recommendations regarding the Northwest Plant allocations until October 3, 2007. The
8 Council argued that RUCO and the Council did not have sufficient due process prior to the October
9 31, 2007, hearing because the proposed Northwest Plant allocation changes were "buried with the
10 amended report," and that it was "unfair and unreasonable under these circumstances to expect a
11 party to provide coherent or meaningful response to last minute exhibits and/or last minute major
12 changes to a case prior to the actual hearing on those very same issues." The Council argued that
13 both RUCO and the Council objected on the record to the Northwest Plant allocation changes and the
14 "timing and procedure in which such changes were becoming part of the case." The Council also
15 asserted in its March 27, 2008, Reply that Staff and the Company failed to meet their burden of proof
16 on the Northwest Plant allocation issue, and that "re-opening the record to allow Staff to actually
17 meet its burden of proof is essential." Finally, the Council stated that the final outcome of this case
18 should be based in equity. The Council argued that if the "Council and RUCO are not permitted to
19 re-open the record and fully litigate the NWVTF [Northwest Plant] re-allocation issue, the
20 evenhandedness of this entire process will be put into question."

21 On March 28, 2008, oral argument was taken from the parties on the Motion to Reopen the
22 Record. The parties entered appearances through counsel and provided oral argument in support of
23 their positions.

24 RUCO contended in oral argument that Staff failed to meet its burden of proof and
25 evidentiary threshold to support its recommendation that 32 percent of the Northwest Plant be
26 allocated to the Anthem/Agua Fria Wastewater District. (Transcript of March 28, 2008 Oral
27 Argument (hereinafter "Tr.") at 5, 23.) RUCO conceded that it did have notice of Staff's change of
28 position on the Northwest Plant allocation, that it did conduct extensive cross examination on the

1 issue, and that RUCO is content with the record regarding procedure. (Tr. at 5-7.) RUCO
2 acknowledged that the Company's concerns about delay are legitimate. (*Id.*)

3 The Council reiterated in oral argument the importance of equity and giving all the parties a
4 full chance to litigate the issues. (Tr. at 8.) Both RUCO and the Council stated that they would
5 support deferring the issue of the Northwest Plant allocation to the next Anthem/Agua Fria rate case.
6 (Tr. 7-9.)

7 Staff expressed concern with the prospect of allowing cases to be reopened for the purpose of
8 allowing parties to relitigate issues that they have already litigated. (Tr. at 10.) Staff stated its belief
9 that granting the Motion in this instance under the current facts and circumstances would severely
10 diminish the meaning of the Commission's process. (Tr. at 12.)

11 In response to the assertions that Staff failed to meet its burden of proof, Staff stated that it
12 presented its case in compliance with all procedural orders, and that Staff believes it met its burden of
13 proof by presenting the testimony of a witness who provided her expert opinion for the Northwest
14 Plant allocation. (Tr. at 10.) Staff stated that its engineering witness testified in detail about her
15 rationale for developing her position based on her expertise. (Tr. at 10.) Staff asserted that RUCO
16 and the Council failed to take multiple opportunities to fully develop a rebuttal case to the case that
17 Staff presented. (Tr. at 11.) Staff pointed out that the parties could have, at any time prior to the
18 close of the record on November 1, 2007, requested additional hearing days, additional time for
19 discovery, or additional time to develop testimony and that if the parties had requested such
20 additional due process, Staff would have supported such a request. (Tr. at 11-12.)

21 Staff posited that RUCO and the Council seem to be asking that the record be reopened for
22 the purpose of having Staff provide additional support or evidence for Staff's position on the
23 Northwest Plant allocation. (Tr. at 12.) Staff responded that it has presented all the evidence it has to
24 present, and that reopening the case will not change that fact. (Tr. at 12, 38-39.) The Company
25 agreed with Staff. The Company stated that Staff's engineering witness testimony, and the cross
26 examination of Staff's and the Company's witnesses by RUCO and the Council, have provided ample
27 evidence in the record on which to make a determination regarding the proper allocation of the
28 Northwest Plant. (Tr. at 18.)

1 The Company stated that the delay up to this point in this case has already caused the
2 Company to forego at least \$2 million in revenues, and that the further requested delay would result
3 in even more unrecoverable revenues, at a minimum cost of \$400,000 for every month of delay. (Tr.
4 at 15-16, 20.) The Company asserted that both RUCO and the Council had actual notice that the
5 allocation of the Northwest Plant would be an issue; that the timing of Staff's revision of its position
6 was not unusual; and that RUCO and the Council had the opportunity to conduct discovery, present
7 evidence, and conduct cross-examination. (Tr. at 16-17.) The Company pointed out that neither
8 party provided objections to the procedural schedule; both parties conducted cross-examination;
9 RUCO put on additional evidence; the Council in a pleading expressly declined the invitation to
10 present additional evidence, indicating that the Council would rest on cross-examination and briefing;
11 and that neither RUCO nor the Council asked for additional time. (Tr. at 17-18.) Regarding
12 comments suggesting deferral of this issue to the next rate proceeding, the Company stated that it
13 would oppose such a procedure if it would mean that there would be no allocation in this case,
14 because the Company believes such a procedure would result in lost revenues approaching \$1 million
15 for what the Company believes are legitimate expenses and legitimate return to rate base and
16 depreciation associated with the facility. (Tr. at 20.)

17 **Discussion**

18 While RUCO argued that it never offered alternatives to the Northwest Plant allocation
19 proposed by the Company and Staff because RUCO didn't have enough time to do so, RUCO
20 acknowledged that it never requested additional time. (Tr. at 24.) When the hearing reconvened
21 following Staff's October 3, 2007, filing, RUCO offered its witness' testimony on the issue, and also
22 cross-examined Staff's witness on the issue. (Tr. at 26.) During oral argument on the Motion,
23 RUCO stated that it believes it would be fair to reopen the record in this proceeding at ratepayers'
24 expense so that it can supplement its case, because RUCO failed to ask for more time before the close
25 of the record, for the reason that RUCO "hadn't digested" the issue, and "didn't know completely
26 what the issue was" before it rested its case. (Tr. at 28.) We disagree with RUCO's assessment in
27 this instance. We find that it would be unfair and inappropriate to reopen the record for the purpose
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1 of allowing RUCO or the Council to supplement it at this point in the proceedings.² Because the
2 moving parties failed to take advantage of multiple opportunities to request more time to conduct
3 discovery and develop a rebuttal case, we find that the Motion is untimely, and that granting it would
4 not only be unfair to the Company and Staff, but would subvert the timely and orderly processing of
5 this case. Moreover, RUCO stated in oral argument that it is content with the record and does not
6 complain of the process in this case, (Tr. at 25), and does not claim that it was deprived of an
7 opportunity to present its case on the allocation issue, (Tr. at 27). Neither does RUCO assert that new
8 material evidence has become available regarding the Northwest Plant allocation since the close of
9 the record, nor that RUCO was inadequately represented in the proceeding. (Tr. at 25.) And while
10 the Council proffered an argument on March 28, 2008, that it did not have a fair opportunity to
11 litigate the Northwest Plant allocation issue, (Tr. at 35), the record reflects that the Council timely
12 responded to the October 9, 2007, Procedural Order, which directed the filing, by October 24, 2007,
13 of responses to late-filed exhibits, including Staff's October 3, 2007, filing regarding the Northwest
14 Plant allocation, and directed that any additional hearing days also be requested by that date. In its
15 October 22, 2007, responsive pleading, the Council expressly indicated the Council's intent "to
16 timely respond to Staff's October 4th Notice of Filing, after an opportunity to question Staff's witness
17 at the October 31, 2007 hearing date. Council intends to respond in the form of final schedules no
18 later than November 6, 2007 and/or in its Closing Brief." (Council's October 22, 2007, Response to
19 Staff's Notice of Filing.) Neither the Council nor RUCO conducted discovery on the Northwest
20 Plant allocation issue following Staff's October 3, 2007, filing, nor did they request additional time to
21 respond. (Tr. at 26, 31.) Both RUCO and the Council cross-examined witnesses on the issue, and
22 both addressed the issue in closing briefs. When questioned as to why, if the Council believed on
23 November 1, 2007, that it was not able to litigate the Northwest Plant allocation issue, it waited until
24 March 13, 2008 to request that the record be reopened for that purpose, the Council stated that it
25 could offer no answer. (Tr. at 36.)

26 The issues surrounding the Northwest Plant allocation that RUCO and the Council wish the
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28 ² The Motion was filed 133 calendar days after the close of the hearing on November 1, 2008.

1 Commission to address are legal, and not factual in nature. The parties had notice of the issue and
2 were provided ample, adequate, and reasonable opportunity to request additional time to conduct
3 discovery and present evidence on the Northwest Plant allocation. The moving parties have
4 addressed the issue in closing briefs. The evidentiary record is sufficient to allow the Commission to
5 make a legal determination on the Northwest Plant allocation issue, including whether parties have
6 met their burdens of proof. The record need not be reopened for the Commission to make its
7 determination, which may, of course, differ from the proposals offered by the parties.

8 Good cause does not exist to reopen the record in this case.

9 IT IS THEREFORE ORDERED that the March 13, 2008, Motion to Open the Record and
10 Schedule a Hearing, filed by the Residential Utility Consumer Office and the Anthem Community
11 Council is hereby denied for the reasons set forth herein.

12 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized
13 Communications) continues to apply to this proceeding and shall remain in effect until the
14 Commission's Decision in this matter is final and non-appealable.

15 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance
16 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Rule 42 of the
17 Rules of Arizona Supreme Court). Representation before the Commission includes the obligation to
18 appear at all hearings and procedural conferences, as well as all Open Meetings for which the matter
19 is scheduled for discussion, unless counsel has previously been granted permission to withdraw by
20 the Administrative Law Judge or the Commission.

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IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend, or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

Dated this 12th day of May, 2007.


TEENA WOLFE
ADMINISTRATIVE LAW JUDGE

Copies of the foregoing mailed/delivered this 12th day of May, 2007 to:

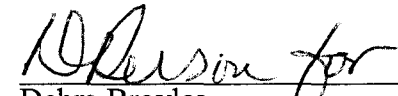
Craig A. Marks
CRAIG A. MARKS, PLC
3420 East Shea Blvd., Suite 200
Phoenix, AZ 85028
Attorney for Arizona-American Water Company

Janice Alward, Chief Counsel
Maureen A. Scott, Senior Staff Counsel
Legal Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, AZ 85007

Paul Li
Thomas M. Broderick
ARIZONA-AMERICAN WATER
COMPANY
19820 North 7th Street, Suite 201
Phoenix, AZ 85024

Ernest G. Johnson, Director
Utilities Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, AZ 85007

John P. Kaite
Geoffrey M. Khotim
RIDENOUR, HIENTON, KELHOFFER,
LEWIS & GARTH, PLLC
201 North Central Avenue, Suite 3300
Phoenix, AZ 85004-1052
Attorneys for Anthem Community Council

By: 
Debra Broyles
Secretary to Teena Wolfe

Michele Van Quathem
RYLEY CARLOCK & APPLEWHITE
One North Central Avenue, Suite 1200
Phoenix, AZ 85004-4417
Attorneys for Pulte Homes Corporation

Scott Wakefield, Chief Counsel
Daniel W. Pozefsky, Staff Attorney
RESIDENTIAL UTILITY CONSUMER
OFFICE
1110 West Washington Street, Suite 220
Phoenix, Arizona 85007